

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:)	
)	
ATHEAL PIERCE)	
)	
Debtor.)	
)	
ATHEAL PIERCE,)	CIVIL ACTION NO.
)	2:05cv1014-MHT
Appellant,)	(WO)
)	
v.)	
)	
CURTIS REDDING,)	
)	
Appellee.)	

ORDER

This cause is now before the court on appellant Atheal Pierce's motion for leave to proceed without prepayment of fees and to adopt the record on appeal (Doc. No. 35), which the court is treating as a motion to proceed on appeal in forma pauperis.*

* Although appellant Pierce has failed to comply with the specific requirements of Fed. R. App. P. 24(a) (that is, he has not submitted an affidavit detailing his inability to pay and stating the issues he intends to
(continued...)

28 U.S.C. § 1915(a)(3) provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, a court must use an objective standard, such as whether the appeal is "frivolous," Coppedge v. United States, 369 U.S. 438, 445 (1962), or "has no substantive merit." United States v. Bottoson, 644 F.2d 1174, 1176 (5th Cir. Unit B May 15, 1981) (per curiam), cert. denied, 454 U.S. 903 (1981); see also Rudolph v. Allen, 666 F.2d 519, 520 (11th Cir. 1982) (per curiam), cert. denied, 457 U.S. 1122 (1982); Morris v. Ross, 663 F.2d 1032 (11th Cir. 1981), cert. denied, 456 U.S. 1010 (1982).

Applying this standard, this court is of the opinion, for the reasons stated in its memorandum opinion, dated February 21, 2006 (Doc. No. 29), that appellant Pierce's appeal is without a legal or factual basis and,

* (...continued)
present on appeal), this shortcoming is of no moment, as the following discussion will make clear.

therefore, is frivolous and not taken in good faith. See, e.g., Rudolph v. Allen, 666 F.2d at 520 ; Brown v. Pena, 441 F. Supp. 1382 (S.D. Fla. 1977), aff'd without opinion 589 F.2d 1113 (5th Cir. 1979).

Accordingly, it is ORDERED that appellant Atheal Pierce's motion to proceed on appeal in forma pauperis (Doc. No. 35) is denied.

It is further ORDERED that the appeal in this cause is hereby certified, pursuant to 28 U.S.C. § 1915(a)(3), as not taken in good faith.

DONE, this the 24th day of March, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE